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AMAX
Minerals+Energy

March 22, 1988

Alice C. Fuerst
Cherokee County Project Manager
Superfund Branch
Waste Management Division
U. S. Environmental Protection Agency
Region VII
726 Minnesota Avenue
Kansas City, Kansas 66101

RECEIVED

MAR 24 1988

Re: Cherokee County CERCLA Site

REMD SECTION

Dear Ms. Fuerst:

As you were informed during the November 5, 1987 meeting with the Cherokee County potentially responsible parties (PRPs), seven of the PRPs (AMAX, ASARCO, Eagle-Picher Industries, Gold Fields Mining Corporation, NL Industries, St. Joe Minerals Corporation and Sun Company) have retained the services of Dr. Ernest E. Angino to prepare a report concerning premining conditions at the above-referenced site. That report, entitled "Pre-mining Surface and Shallow Groundwater Quality in the Vicinity of Short Creek, Galena, Kansas," has now been completed, and it is submitted with this letter for inclusion in the administrative record for EPA's response actions at the Cherokee County site (including, without limitation, the alternative water supply (AWS) operable unit feasibility study (OUFS), and the groundwater/surface water OUFS).

In brief summary, the report concludes, based on several independent but related approaches, that prior to mining, the surface water and shallow groundwater in the vicinity of the Galena subsite would not have met current drinking water standards or surface water quality standards. In particular, the report concludes, based on universally applicable geochemical reactions, that naturally elevated background levels of metals and other parameters existed prior to mining activities in the Galena area, due in large measure to the presence of



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an exposed oxidizing sulfide ore body. Those conclusions were supported by examination of water quality conditions at or in the vicinity of undisturbed sulfide ore bodies currently existing in a variety of climatic and geological settings around the world, and by a computer simulation of pre-mining water quality that takes into account various solubilities and oxidizing/reducing conditions. Significantly, the report supports the conclusions about pre-mining geological conditions and geochemical processes that were set forth in the report prepared by Daniel R. Stewart and submitted for inclusion in the administrative record under cover letter dated July 15, 1987.

The report clearly supports the PRPs' position that natural background conditions alone can account for the elevated metals levels that appear to exceed drinking water standards in a relatively small percentage (10 percent) of the shallow aquifer wells sampled by EPA. The information set forth in the Angino report also provides further support for the PRPs position that, based on an objective evaluation of all relevant geological, geochemical, and other factors, the "no action" alternative is the only appropriate decision for the AWS OUFS.

Accordingly, based on the information in the Angino report, the PRPs specifically request the Agency to reconsider its selection of the remedial action alternative as set forth in the December 21, 1987 Record of Decision for the AWS OUFS. This request is further supported by the fact that in the groundwater/surface water OUFS, EPA has both implicitly and explicitly acknowledged the validity of certain other comments previously made by the PRPs concerning the AWS OUFS -- despite the fact that the PRPs points were not acknowledged in the "Community Relations Responsiveness Summary" for the AWS OUFS.

For example, certain water quality data in the groundwater/surface water OUFS is treated differently than in the AWS OUFS. In our comment letter on the Final Technical Memorandum, Site Wide Water Supply Inventory (letter to Alice Fuerst dated February 1, 1988), which served as the primary support for the AWS OUFS, we noted that the average concentrations of the metallic ions in the 123 private wells sampled were erroneously calculated and that this action distorted the description of the existing conditions and the public health assessment included in the AWS OUFS. Although this point was not acknowledged in the "Community

Relations Responsiveness Summary" for the AWS OUFS, the EPA did recalculate the average concentration of these ions in the wells for the Groundwater and Surface Water OUFS. Comparing Table 3-1 of the AWS OUFS with Table 3-2 of the groundwater and surface water OUFS clearly acknowledges the validity of our comment on this point.

In addition, there are other inconsistencies between the two OUFS documents including, for example, the percentage of the Galena subsite surface area that is alleged to be covered with mine waste. On page 2-13 of the AWS OUFS, the EPA stated that "an estimated 20 to 30% of the 18 square mile subsite area is covered by mining waste materials". In our comment letter on the AWS OUFS (letter to Alice Fuerst dated December 10, 1987) we noted and provided technical support for the fact that the AWS OUFS greatly overstated the area affected by historical mining activities. In the "Community Relations Responsiveness Summary" the EPA restated their position that 20-30% of the subsite was covered with waste materials, yet on pages 6 and 2-17 of the groundwater and surface water OUFS the EPA stated that "mine wastes cover about 8% of the area within the Galena subsite". These and other differences between the AWS OUFS and the groundwater and surface water OUFS clearly demonstrate that the EPA acknowledges certain inaccuracies in the AWS OUFS.

The cumulative effect of the information provided in the Angino report -- or implicitly acknowledged by EPA in the groundwater/surface water OUFS to have been inaccurate at the time of the AWS OUFS ROD -- is a fundamentally flawed decision by the Agency. Because, to the best of the PRPs knowledge, the remedial alternative selected by EPA has not yet been implemented and, at best, is still in its very early organizational stage, the PRPs believe that this request for reconsideration is both timely and warranted.

The PRPs urge the Agency to act on this request as expeditiously as practicable, to avoid the unnecessary expenditure of CERCLA funds. We also request that the instant request for reconsideration be placed on the agenda for the March 30 meeting with the PRPs in Kansas City, previously scheduled in order to discuss the groundwater/surface water OUFS.

Thank you for your consideration of this request, and for the inclusion of this letter and the Angino report in the administrative record for the Cherokee County site. As in the past, this submission by the PRPs is

not an admission or waiver of any defense (and should not be construed as an admission or waiver) concerning any PRPs liability for response costs at the Cherokee County site or concerning the propriety of EPA's activities there.

Sincerely,

A handwritten signature in cursive script that reads "Peter Keppler".

Peter Keppler
on behalf of

cc: Kansas Department
of Health and
Environment

AMAX Inc.
ASARCO
Eagle-Picher Industries
Gold Fields Mining
Corporation
NL Industries
St. Joe Minerals
Corporation
Sun Company

